

# HOUSE BILL 1355

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CF 7lr3185

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By: **Delegates Rose, Adams, Anderton, Beitzel, Bromwell, Buckel, Chang, Cluster, Folden, Grammer, Hayes, Hornberger, Jacobs, Kittleman, Krebs, Long, McComas, McKay, W. Miller, Morgan, Otto, Saab, Shoemaker, Simonaire, and B. Wilson**

Introduced and read first time: February 10, 2017

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Sewerage Systems – Residential Major Subdivisions in Tier III and Tier IV**  
3 **Areas**

4 FOR the purpose of authorizing a local jurisdiction to authorize a residential major  
5 subdivision served by on-site sewage disposal systems, community sewerage  
6 systems, or shared systems in Tier III and Tier IV areas under certain  
7 circumstances; exempting certain residential major subdivisions from certain  
8 provisions of law; specifying that this Act does not create new development rights;  
9 and generally relating to sewerage systems.

10 BY repealing and reenacting, without amendments,  
11 Article – Environment  
12 Section 9–206(a), (b), (c), and (e)  
13 Annotated Code of Maryland  
14 (2014 Replacement Volume and 2016 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Environment  
17 Section 9–206(d), (f), and (g)  
18 Annotated Code of Maryland  
19 (2014 Replacement Volume and 2016 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
21 That the Laws of Maryland read as follows:

22 **Article – Environment**

23 9–206.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (1) In this section the following words have the meanings indicated.

(2) “Community sewerage system” means a publicly or privately owned sewerage system that serves at least two lots.

(3) “Growth tiers” means the tiers adopted by a local jurisdiction in accordance with Title 1, Subtitle 5 of the Land Use Article.

(4) “Lot” includes a part of a subdivision that:

(i) Is used or is intended to be used as a building site; and

(ii) Is not intended to be further subdivided.

(5) “Major subdivision” means:

(i) The subdivision of land:

1. Into new lots, plats, building sites, or other divisions of land defined or described as a major subdivision in a local ordinance or regulation:

A. That is in effect on or before January 1, 2012; or

B. Adopted on or before December 31, 2012, if a local jurisdiction chooses to create a definition or description applicable solely to this section or if a local ordinance or regulation does not define or describe a major subdivision under item A of this item; or

2. If a local jurisdiction has not adopted a definition or description of a major subdivision on or before December 31, 2012, under item 1 of this item, into five or more new lots, plats, building sites, or other divisions of land; and

(ii) If the local ordinance or regulation has multiple definitions or descriptions of a major subdivision under item (i) of this paragraph, the definition or description of a major subdivision that is determined by the local jurisdiction to apply for the purposes of this section.

(6) “Minor subdivision” means:

(i) The subdivision of land:

1. Into new lots, plats, building sites, or other divisions of land defined or described as a minor subdivision in a local ordinance or regulation:

A. That is in effect on or before January 1, 2012; or

B. Adopted on or before December 31, 2012, if a local jurisdiction chooses to create a definition or description applicable solely to this section or if a local ordinance or regulation does not define or describe a minor subdivision under item A of this item, provided that a minor subdivision defined or described in the adopted ordinance or regulation does not exceed seven new lots, plats, building sites, or other divisions of land; or

2. If a local jurisdiction has not adopted a definition or description of a minor subdivision on or before December 31, 2012, under item 1 of this item, into fewer than five new lots, plats, building sites, or other divisions of land; and

(ii) If the local ordinance or regulation has multiple definitions or descriptions of a minor subdivision under item (i) of this paragraph, the definition or description of a minor subdivision that is determined by the local jurisdiction to apply for the purposes of this section.

(7) “On-site sewage disposal” means the disposal of sewage beneath the soil surface.

(8) (i) “On-site sewage disposal system” means a sewage treatment unit, collection system, disposal area, and related appurtenances.

(ii) “On-site sewage disposal system” includes a shared facility or community sewerage system that disposes of sewage effluent beneath the soil surface.

(9) “Public sewer” means a community, shared, or multiuse sewerage system.

(10) “Shared facility” means a sewerage system that:

(i) Serves more than one:

1. Lot and is owned in common by the users;

2. Condominium unit and is owned in common by the users or by a condominium association;

3. User and is located on individual lots owned by the users; or

4. User on one lot and is owned in common by the users; or

(ii) Is located wholly or partly on any of the common elements of a condominium; or

(iii) Serves a housing or another multiple ownership cooperative.

(11) “State agency” means:

(i) The Maryland Agricultural Land Preservation Foundation;

(ii) The Maryland Environmental Trust;

(iii) The Department of Natural Resources; or

(iv) The Maryland–National Capital Park and Planning Commission.

(12) “Subdivision” means a division of a tract or parcel of land into at least two lots for the immediate or future purpose of sale or building development.

(b) (1) Subsections (f) through (i) and subsection (l) of this section apply to residential subdivisions.

(2) Subsections (f) through (i) do not apply to an application for approval of a residential subdivision under § 9–512(e) of this title if:

(i) 1. By October 1, 2012, a submission for preliminary plan approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development;

2. By July 1, 2012, in a local jurisdiction that requires a soil percolation test before a submission for preliminary approval:

A. An application for a soil percolation test approval for all lots that will be included in the submission for preliminary approval is made to the local health department; and

B. Within 18 months after approval of the soil percolation tests for the lots that will be included in the submission for preliminary approval, a submission for preliminary approval is made to a local jurisdiction that includes, at a minimum, the preliminary engineering, density, road network, lot layout, and existing features of the proposed site development; or

3. By July 1, 2012, in a local jurisdiction that requires a soil percolation test before a submission for preliminary approval and the local jurisdiction does not accept applications for soil percolation tests year round:

A. Documentation that a Maryland professional engineer or surveyor has prepared and certified under seal a site plan in anticipation of an application for soil percolation tests;

1                   B.     An application for a soil percolation test approval for all  
2 lots that will be included in the submission for preliminary approval is made to the local  
3 health department at the next available soil percolation test season; and

4                   C.     Within 18 months after approval of the soil percolation  
5 tests for the lots that will be included in the submission for preliminary approval, a  
6 submission for preliminary approval is made to a local jurisdiction that includes, at a  
7 minimum, the preliminary engineering, density, road network, lot layout, and existing  
8 features of the proposed site development; and

9                   (ii)    By October 1, 2016, the preliminary plan is approved.

10           (c)    (1)    Subsections (f) through (i) and subsection (l) of this section do not apply  
11 to covenants, restrictions, conditions, or conservation easements that were created or  
12 entered into at any time under § 2–118 of the Real Property Article for the benefit of, or  
13 held by, a State agency or a local jurisdiction for the purpose of conserving natural resources  
14 or agricultural land.

15                   (2)    Subsections (f) through (i) of this section may not be construed as  
16 granting any additional rights in covenants, restrictions, conditions, or conservation  
17 easements that were created or entered into at any time under § 2–118 of the Real Property  
18 Article for the benefit of, or held by, a State agency or a local jurisdiction for the purpose of  
19 conserving natural resources or agricultural land.

20           (d)    **(1)**    Subsections (f) through (i) and subsection (l) of this section do not:

21                   **[(1)] (I)**    Affect a local transfer of development rights program authorized  
22 under § 10–324 of the Local Government Article or Title 7, Subtitle 2 or § 22–105 of the  
23 Land Use Article; or

24                   **[(2)] (II)**   Diminish the local development rights transferred in these  
25 transfer of development rights programs.

26                   **(2)    SUBSECTION (F)(2) AND (3) OF THIS SECTION DOES NOT CREATE**  
27 **NEW DEVELOPMENT RIGHTS.**

28           (e)    Subsections (f) through (i) and subsection (l) of this section may not be  
29 construed as prohibiting a local jurisdiction from altering the definition or description of a  
30 major or minor subdivision in a local ordinance or regulation for local zoning or  
31 development purposes.

32           (f)    **(1)**    On or after December 31, 2012, a local jurisdiction:

33                   **[(1)] (I)**    May not authorize a residential major subdivision served by  
34 on-site sewage disposal systems, community sewerage systems, or shared systems until

the local jurisdiction adopts the growth tiers in accordance with § 5–104 of the Land Use Article; or

**[(2)] (II)** If the local jurisdiction has not adopted the growth tiers in accordance with § 5–104 of the Land Use Article, may authorize:

**[(i)] 1.** A residential minor subdivision served by on–site sewage disposal systems if the residential subdivision otherwise meets the requirements of this title; or

**[(ii)] 2.** A major or minor subdivision served by public sewer in a Tier I area.

**(2) A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL MAJOR SUBDIVISION SERVED BY ON–SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY SEWERAGE SYSTEMS, OR SHARED SYSTEMS IN TIER III AREAS IF:**

**(I) 1. THE DEVELOPMENT RIGHTS LIMITED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION EXISTED ON DECEMBER 1, 2012; OR**

**2. THE DEVELOPMENT RIGHTS LIMITED UNDER SUBSECTIONS (F)(1) AND (G) OF THIS SECTION EXISTED UNDER THE MANNER IN WHICH AN AREA, A PLAT, OR A LOT WAS ZONED ON OR BEFORE DECEMBER 1, 2012;**

**(II) AT LEAST 10% OF THE REMAINING PORTION OF THE LOCAL JURISDICTION’S TIER III AREA IS PROTECTED AS:**

**1. A FEDERAL, STATE, OR LOCAL PARK, FOREST, NATURAL AREA, OR EDUCATIONAL AREA;**

**2. A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR HISTORIC AREA; OR**

**3. A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL CONSERVATION EASEMENT; AND**

**(III) AT LEAST 25% OF THE REMAINING PORTION OF THE LOCAL JURISDICTION’S TOTAL LAND IS PROTECTED FROM DEVELOPMENT AS:**

**1. A FEDERAL, STATE, OR LOCAL PARK, FOREST, NATURAL AREA, OR EDUCATIONAL AREA;**

1                                   2.     A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR  
2     HISTORIC AREA; OR

3                                   3.     A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE  
4     EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL  
5     CONSERVATION EASEMENT.

6                   (3)     A LOCAL JURISDICTION MAY AUTHORIZE A RESIDENTIAL MAJOR  
7     SUBDIVISION SERVED BY ON-SITE SEWAGE DISPOSAL SYSTEMS, COMMUNITY  
8     SEWERAGE SYSTEMS, OR SHARED SYSTEMS IN TIER IV AREAS IF:

9                               (I)    1.     THE DEVELOPMENT RIGHTS LIMITED UNDER  
10    PARAGRAPH (1) OF THIS SUBSECTION AND SUBSECTION (G) OF THIS SECTION  
11    EXISTED ON DECEMBER 1, 2012; OR

12                               2.     THE DEVELOPMENT RIGHTS LIMITED UNDER  
13    SUBSECTIONS (F)(1) AND (G) OF THIS SECTION EXISTED UNDER THE MANNER IN  
14    WHICH AN AREA, A PLAT, OR A LOT WAS ZONED ON OR BEFORE DECEMBER 1, 2012;

15                               (II)   AT LEAST 20% OF THE REMAINING PORTION OF THE LOCAL  
16    JURISDICTION'S TIER IV AREA IS PROTECTED AS:

17                               1.     A FEDERAL, STATE, OR LOCAL PARK, FOREST,  
18    NATURAL AREA, OR EDUCATIONAL AREA;

19                               2.     A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR  
20    HISTORIC AREA; OR

21                               3.     A FEDERAL, STATE, OR LOCAL NATURAL RESOURCE  
22    EASEMENT, HISTORIC PRESERVATION EASEMENT, OR AGRICULTURAL  
23    CONSERVATION EASEMENT; AND

24                               (III)   AT LEAST 30% OF THE REMAINING PORTION OF THE LOCAL  
25    JURISDICTION'S TOTAL LAND IS PROTECTED FROM DEVELOPMENT AS:

26                               1.     A FEDERAL, STATE, OR LOCAL PARK, FOREST,  
27    NATURAL AREA, OR EDUCATIONAL AREA;

28                               2.     A FEDERAL, STATE, OR LOCAL CULTURAL AREA OR  
29    HISTORIC AREA; OR

(g) (1) Except as provided in [subsection (f)(2)] **SUBSECTION (F)(1)(II), (2), AND (3)** of this section and subject to subsection (i) of this section, a local jurisdiction may authorize a residential subdivision plat only if:

(ii) All lots proposed in an area designated for Tier II growth:

2. If the subdivision is a minor subdivision, may be served by on-site sewage disposal systems;

(iv) The subdivision is a major subdivision served by on-site sewage disposal systems, a community system, or a shared facility located in a Tier III area and has been recommended by the local planning board in accordance with § 5-104 of the Land Use Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
October 1, 2017.